

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1742

IN THE MATTER OF:

Served August 31, 1977

Application of VINCENT FERGUSON)	
GIBSON T/A CONTINENTAL LIMOUSINE)	
for Temporary Authority to)	Application No. 1006
Conduct Special Operations - TWA)	
Flight Crews)	

By application filed August 19, 1977, Executive Limousine Service, Inc. (Executive), seeks reconsideration of Order No. 1734, served August 5, 1977, granting certain temporary authority to Vincent Ferguson Gibson (Gibson). The filing of this application for reconsideration has acted as a stay upon the execution of Order No. 1734 pending our action herein. See Title II, Article XII, §16 of the Compact. Gibson filed a reply to the application for reconsideration on August 25, 1977, in which it contends inter alia, that Order No. 1734 is not a final order within the meaning of Title II, Article XII, §16 of the Compact, and, hence, is not stayed by the filing of Executive's application for reconsideration.

Executive asserts that it may perform the subject transportation service under Part C of its Certificate of Public Convenience and Necessity No. 18 1/ and further contends that the Commission erred by granting temporary authority in view of the pendency of other proceedings in which Gibson's fitness is at issue. 2/ We find that neither of these arguments warrants granting the relief sought by Executive.

Executive's reliance on Part C of Certificate No. 18 is inappropriate. That authority is for charter operations, whereas the service involved herein is special operations. Moreover, the condition attached to Part C, see footnote 1, supra, precludes Executive from providing transportation between Dulles International Airport and other points when such service is unrelated to other, prearranged, non-airport charters. Finally, Order No. 1734, specifically reserves the issue

1/ Part C authorizes charter operations, over irregular routes, between points in the Metropolitan District subject to the condition that "Any charter operations from or to Dulles International Airport. . . must be related to a prearranged charter movement by the same party between at least two other points in the Metropolitan District."

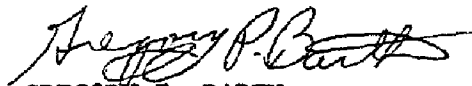
2/ See Application Nos. 986 and 994 and Formal Complaint No. 77-2.

of Gibson's fitness for determination in connection with Application No. 986 and Formal Complaint No. 77-2. In the absence of an existing finding of unfitness, it is the Commission's policy to weigh allegations of unfitness against the urgency of the need for service, and, inasmuch as Executive is not presently authorized to provide the subject transportation, we find no error in our determination that a grant of temporary authority was required. Accordingly, Order No. 1734 shall be affirmed.

The Commission cannot agree with Continental's contentions regarding the finality of Order No. 1734. Assuming arguendo, that disposition of a temporary authority application is interlocutory in nature, it must follow that reconsideration does not lie and that applications therefor should be rejected. Obviously, this flies in the face of the precedent established by this Commission, the Interstate Commerce Commission, and, we believe, other regulatory agencies with discretion to grant temporary authority. We find nothing in the Compact that evidences any legislative intent to preclude reconsideration of an order granting temporary authority, nor is there any statutory basis for selecting this particular subject matter for disparate treatment. The Commission and those who practice before it have always recognized that an order granting or denying temporary authority is subject to both reconsideration and judicial review, and while the right to reconsideration may, on occasion, generate some hardship due to the automatic stay attendant thereto, we are not free to act beyond the scope of discretion conferred by the Compact.

THEREFORE, IT IS ORDERED that the above-referenced application for reconsideration of Executive Limousine Service, Inc., be, and it is hereby, denied.

BY DIRECTION OF THE COMMISSION:


GREGORY P. BARTH
Acting Executive Director